

CHILDREN AT RISK:  
State v. Andy Adams and Beth Baker

Training Materials for Docents  
for Mock Trial Videotape

Developed by:  
Children at Risk Committee  
San Diego County Bar Association  
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With a Foreword by:  
Magistrate Judge Leo S. Papas  
United States District Court, Southern District of California

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## Foreword

In 1993, a program called *Judges in the Classroom* was created through the inspiration of United States Circuit Judge David R. Thompson. The concept encouraged federal judges to visit schools to expose young students to the judicial system in a way that not only enlightens them about the process but also helps them appreciate their roles and responsibilities in society. I joined that program shortly after its inception with the philosophy that if I were able to prevent even one child from getting into trouble with the law, my efforts would have been worthwhile.

Over the next few years, I concluded that "lecturing" students about the court system was not productive and, from the student (and sometimes my) perspective, was boring. I therefore searched for alternatives and came across an idea that seemed to resonate — a mock criminal trial where the students would act as jurors. The vehicle for their participation was a video prepared by the Ohio State Bar in the early 1980s which involved a fictional trial of Goldilocks and the Three Bears. That program was well received and I could see the spark in the eyes of the students when I announced they would act as jurors. As time wore on, however, I realized that the tape was too "juvenile" even for elementary students and would lose their interest. In addition, I found that students as young as eight years old were in tune with what was happening around them and more realism was necessary. As a result, for the last five years, I searched for an alternative.

The Children at Risk program, the video tape, and these accompanying materials are the culmination of not only that search, but also of a monumental volunteer effort by a team of extremely talented, dedicated, and unselfish people. It is impossible to adequately thank them for their efforts. This could never have been accomplished without their willingness to take time from their personal and professional lives. All their names are reflected at the end of the video, but some deserve special recognition.

Karen Hughes -- a heroine by anyone's definition for her personal sacrifices and dedication who, along with Elizabeth Sitnick and Michele Hirzel, oversaw the creation of a script based on a concept we discussed and who insured that it was written so students of all ages could understand the language and terminology. Karen and Elizabeth coordinated the video participants and insured their parts were memorized and presented with proper demeanor and delivery. They also monitored the progress of the entire process to see that it was timely, balanced, and fairly structured. August Larsen -- who has my unending gratitude for not only volunteering to provide the video equipment, skill, and time to assemble a highly professional product, but who also came up with outstanding creative ideas to enhance the final result. He generously donated substantial time to this project based on his belief that it was worthwhile and might help save "at risk" children. Cynthia Cwik, another unselfish and devoted member of the bar who believes in giving back to the community and who, when presented with the concept of the video, became the catalyst that caused all the personalities to come together. I could go on about others who donated time and skill, but space does not permit. I encourage you to examine the credits at the end of the video to see all those who gave generously of their time to help this project come to fruition.

We have created two versions of the video. The first, complete version is a “stand alone” program that permits participation without a legal background. The full version, along with these materials and perhaps a little “prompting” from the presenter, will accomplish the goal of having the student learn what transpires during a criminal trial and how a juror has to make a real decision when there is no “right” answer. The second, edited version assumes that the presenter has some knowledge or background in the legal field. These materials provide suggested topics and discussion points that will encourage interaction between the instructor and students, and among the students themselves. The edited version yields the most satisfying results for all involved because of the dialog that is inherent in its structure.

So, with the help of many dedicated volunteers, my quest and goal has been achieved. I am extremely proud of the people who stayed involved and the result they so graciously helped me accomplish. The video and these materials introduce educators and students to the concepts of justice, responsibility, and the role of citizens within society. The program is structured to closely imitate the judicial process. By serving as members of a jury and interacting with instructors during the course of the video trial, all participants benefit by learning to accommodate and adapt, express and defend opinions, and work within societal rules. The mock video trial affords the instructor the opportunity to help students not only understand their roles within the framework of the trial, but also realize their responsibilities in real life, the potential impact of their decision on the lives of the defendants, and the consequences of their own decisions on themselves. It can provide insight to real life lessons if the right time and effort are expended. I hope you feel the same after seeing the video and reading these materials.

Magistrate Judge Leo S. Papas  
United States District Court  
Southern District of California

## I. Overview

### A. Contact to Purchase Videotape

Anyone interested in obtaining these materials and a copy of either the complete or redacted version of the Children at Risk video should contact the Office of the Circuit Executive of the United States Courts for the Ninth Circuit at (415) 556-9991 / (415) 556-6179 fax, or the San Diego County Bar Association at (619) 231-0781 or fax (619) 338-0042. **Please reference the Children at Risk Video.**

### B. Two Versions of Videotape

Two versions are available: a complete version, which includes judicial commentary (50 minutes), and a redacted version without that commentary (25 minutes). The actors are non-professional children from ages 9 to 16.

#### 1. The Complete Version

In the complete version, Magistrate Judge Papas supplies judicial commentary to explain legal concepts as they arise during the trial. This version may be especially useful for teachers to use independently, without a guest speaker. Alternatively, judges and attorneys may elect to use the video -- with all or some -- of the videotaped commentary in addition to their own presentation.

#### 2. The Redacted Version

The redacted version contains only the courtroom scenes, and is designed for judges or attorneys who are familiar with the legal concepts. Except for the introduction and conclusion by Judge Papas, this version does not include judicial commentary. Instead, the video has seven points at which the tape may be paused and the docent may explain the legal concepts to the class. The seven discussion points are each indicated by a graphic of a large blue numeral (e.g., ①), which stays on the screen for five seconds. Each docent may elect to stop the video at these designated times, or at any additional points, or simply let the video run without interruption.

### C. Training Materials

These materials are provided as a guide, and we encourage each docent to develop and use an individual approach for their presentation. It is strongly recommended that each docent view the tape before attending a class, even though the materials also summarize the general content of the video.

The Suggested Lesson Plan in § II of these materials describes one format in connection with the redacted version, but you are free to modify, add, delete, or alter the presentation to suit the age and interest level of the class. The Suggested Lesson Plan demonstrates one possible approach that requires the docent to (1) introduce the topic and answer initial questions, (2) play the redacted version of the tape and stop at the seven designated points to explain concepts and invite class participation; (3) supervise jury deliberations with the class acting the jury to reach a verdict; and (4) conduct a concluding discussion.

The Suggested Lesson Plan is organized to correspond to the discussion points in the redacted version of the video. By contrast, the judicial commentary in the complete version is interspersed at different points in the video. Specifically, the complete version has fourteen instances of commentary, while the redacted version compressed those into seven positions. When presenting the complete version, therefore, the suggested format in these written materials will not correlate precisely to the discussion points explained by Judge Papas; thus, the docent will need to adjust these materials to fit.

The Appendix contains documents that docents may photocopy for their presentations. For example, a verdict form. The Mix and Match Vocabulary form can be used to guide the class through the cast of characters in the video, or as a quiz. Finally, Judge Papas has graciously allowed us to reprint the remarks he uses in his presentations. First-time presenters, in particular, will benefit from reviewing Judge Papas' remarks, as he has significant experience in explaining complex legal concepts in straightforward language that students can comprehend.

#### D. Summary of Trial: State v. Andy Adams & Beth Baker

The trial involves two teenagers charged with selling marijuana at a Middle School. Defendant "Andy" is a good student but is caught holding the marijuana, while defendant "Beth" is an athlete with a reputation as a troublemaker. The government believes that both teens are guilty, and relies on the testimony of an undercover police officer who overheard parts of a discussion between the teens about selling drugs to make money. The defendants give conflicting stories and accuse the other of soliciting them to sell drugs to friends. The script is ambiguous enough to promote debate during deliberations because each party's case has its unique strengths and weaknesses. The different perceptions and interpretations of the events are highlighted in

"flashback" scenes in which the version of each witness about "what really happened" is acted out by Andy, Beth, and the police officer.

The courtroom scenes cover the central aspects of a trial. In the interest of time, however, the video does not include jury selection, and only one defense attorney questions each witness. The video ends when the jurors return to the courtroom to announce the verdict. The video, however, does not reveal a verdict, as the docent will supervise the class to conduct their own jury deliberations.

#### E. General Guidelines

The materials are not intended to constrain, but merely to provide suggestions of subjects for discussion or prompt the development of an effective program suited to each docent's style and the needs of the particular audience. For example, some presenters may wish to emphasize the anti-drug message, while others may wish to discuss broad social themes such as fairness. The video was developed to be appropriate for students from grade school to at least middle school (possibly beyond, e.g., adult education or citizenship classes).

We strongly advise all docents to watch the video before a presentation, and to devote adequate preparation time in order to create effective examples and appropriate analogies to the comprehension level of the particular class. For example, to distinguish criminal and civil cases, instead of explaining that larceny is an example of a crime and breach of contract is an example of a civil suit, use a more age-appropriate example of a student taking a book from the library without checking it out, or a student agreeing to walk a neighbor's dog after school for pay but instead playing basketball. For that reason, even the docents who use the redacted version may wish to listen to Judge Papas' explanation of the concepts in the complete version (or to read them in the attached Appendix). Judge Papas has participated in the "Judges in the Classroom" program for many years, and has developed a natural, easy-to-understand style of explaining the concepts to students. We believe it is critical to the success of the program to plan in advance the explanations and examples you will give to the particular class.

We recommend that at least 1½ hours be set aside for the entire presentation; however, an active class can extend the time to 2 hours. Allow a proper apportionment of time to watch the video, discuss key points, respond to questions, and give the jury time to deliberate. As some class

periods are limited to 50 minutes, we advise you to confirm the time allotted with the teacher. One solution may be for teachers to combine two class periods. Alternatively, the teacher can show the video to the class before the scheduled visit. In any event, the docent should confirm the allotted time and plan their presentation in advance.

The program is flexible enough to be presented by one person or a team. For example, one judge can make the presentation, or lawyers may prefer to join teams or to include other personnel in the court system (e.g., a probation officer). Though the mock trial involves a crime, any attorney is qualified to discuss the trial concepts with students.

Questions from the class provide the best source of discussion topics. Because many students have quiet voices, we recommend that you repeat the question to the entire class before giving your answer.

## II. A Suggested Lesson Plan for the Redacted Version

### ⌚ Introduction: Summary, Definitions, Introduce Participants

#### A. Before the video starts, cover the following topics:

1. Introduce yourself, describe your job, and introduce the mock trial concept.

NOTE: The redacted version includes Judge Papas' introduction. In those remarks, he welcomes the viewer to the courtroom, describes the general nature of the trial, introduces the characters, and asks the class to stand up, raise their right hands, and take the jury oath since they will be acting as the jury in the trial.

2. Explain differences between juvenile court, where a judge hears the case, and adult court, where a jury hears the case. Discuss reasons a juvenile does not have a jury trial. Discuss reasons the government may elect to try a juvenile as an adult.

3. Define the participants (See worksheet in Appendix). For example:

The judge controls the introduction of evidence and enforces courtroom rules.

A defendant is the person accused of committing a crime.

A defense attorney is hired to represent someone accused of a crime.

A prosecutor is the lawyer for the government and represents the "people."

A jury is a group of people selected to hear and decide the result of a case.

The bailiff helps the judge conduct the trial.

The court reporter writes down every word that is said during the trial.

4. Discuss why courts use juries, and the advantages and disadvantages of having strangers decide outcome? Emphasize that the jury, not the judge, decides the outcome; therefore, their role is important. Discuss the qualifications for serving on a jury. Do all countries use a jury system? Describe the method of jury selection to find impartial jurors.

5. Discuss plea agreements and settlements.

6. Describe difference between civil and criminal cases. Compare beyond a reasonable doubt to preponderance of evidence standard.

7. Describe grand jury process and right to indictment.

8. Describe bail process and factors that determine whether a person should get bail. Discuss role of the surety. What happens if defendant flees?

9. Discuss difference between a misdemeanor and a felony.

10. What is a "federal" case? Describe federal and state courts.

B. You can then start the video tape and play it until the government calls the police officer to the stand. A screen with a blue ① will signal you that it is time to stop the tape for the first discussion point.

**Content of this Section of Video:** Magistrate Judge Papas welcomes the class to the courtroom, summarizes the trial, introduces the actors, and gives the jury oath.

The trial starts with the opening statement of the prosecutor. She will tell the jury that she expects the evidence will show that Andy Adams and Beth Baker were both involved in a scheme to sell marijuana to other students at school. A Police Officer saw Andy meet Beth in front of the school. He saw Andy show Beth some money, and he saw Andy holding a bag of marijuana as he talked to Beth.

### **Discussion Point ①: Oath, Testimony**

A. The first pause for discussion occurs after the prosecutor has given the opening statement and calls the police officer to the stand. To prepare the students for the first witness, you may choose to discuss some or all of the following topics.

1. Discuss reason the witness takes the oath. Discuss form of oath and its content.
2. Discuss basics of testimony, e.g., what is purpose of question/answer format



versus narrative form; whether witness can comment on their personal beliefs versus personal observations; and relevance. Can the judge or jury ask the witness questions?

3. Discuss government's burden of proof and the defendant's presumption of innocence. If the jury voted at this point in the trial, the verdict would have to be "not guilty."

4. Was the prosecutor's opening statement effective? Discuss reasons a defense attorney may waive the right to give an opening statement.

5. Why does the government present its case first?

B. You can then start the video and let it play through the government's direct examination of the police officer.

**Content of this Section of Video:** The video continues with the police officer's testimony that it was his job to patrol the school grounds for drug crimes. He noticed Andy was nervously waiting in front of the school. The officer saw Beth approach Andy for an arranged meeting. When the two began talking, he heard the word "weed." He heard the teens discuss making money by selling drugs to their friends. Based on his experience, he gives his opinion that both teens were involved. At the time of arrest, Andy had \$200 and 1½ ounces of marijuana, which had been packaged into six individual bags. The prosecutor asks the officer to identify the exhibits (money and drugs).

### **Discussion Point ②: Exhibits, Cross-Examination**

A. After the police officer completes his direct examination, you may stop the videotape at the screen with the blue ② to discuss the following topics.

1. Discuss types and uses of exhibits. Describe process of introducing exhibits, opportunity for attorneys to object, and judge's role.

2. Do police officer's always tell the truth? Is the testimony of a police officer worth more than that of a civilian witness?

3. Define and discuss role of cross examination. If the students were representing the defendants, what questions would they ask the police officer?

B. You can then start the video and let it play through the cross examination of the police officer until the judge rules on the defense attorney's objection.

**Content of this Section of Video:** Under cross examination, the police officer will admit that he was standing about 15 feet away, and he could not hear everything the teens said. He will admit that there were distractions, such as other students and a soccer game. The officer begins to give broad opinion testimony about the relationship of the teens, and the defense attorney objects. The judge sustains the objection and instructs the officer to answer the question asked.

### **Discussion Point ③: Objections**

A. Stop the video after the court instructs the police officer to answer the question (at the blue ③). At this time, you may wish to discuss the following topics.

1. Discuss objections. Discuss the attorney's duty to object and give an example of an instance when the attorney might not object for strategic reasons.
2. Discuss how the attorney "argues" the reasons for the objection.
3. Define "sustained" and "overruled."
4. Discuss limiting instructions. Can the jury really disregard something once they have heard it? Who will enforce the judge's ruling to disregard part of a witness' testimony once the jury begins to deliberate?

B. Continue the tape through the completion of the police officer's cross examination.

**Content of this Section of Video:** Once instructed to answer the question, the police officer admits that he did not actually see Beth hand the drugs to Andy because he had stopped to throw the soccer ball back to the kids. He also admits he did not check the exhibits for fingerprints. The government rests.

### **Discussion Point ④: Defendant's Right to Remain Silent**

A. Stop the video at the blue ④ -- after the court asks Defendant Andy Adams if he wishes to present evidence. At this time, you may wish to discuss the following topics.

1. Discuss a criminal defendant's right against self incrimination, and that the defendant does not have to testify in his defense. Explore what a jury might think when a defendant chooses not to testify.
2. Emphasize the importance of keeping an open mind until all the evidence is heard.

B. Continue the tape through Andy's direct examination.

**Content of this Section of Video:** Defendant Andy testifies on his own behalf. He states that he is a straight A student, plays in the band, graduated from DARE, and loves school. He states that he did not plan to meet Beth after school. He is afraid of her because she has a reputation as a thief and bully. His mother had given him \$200 to buy computer games. He did not show the money to Beth; rather, he was hiding it from her when it looked like she was coming over to sit by him. He was curious when Beth showed him the marijuana, and did discuss making money -- but it was only an act to keep Beth from getting mad at him or thinking he wasn't cool.

**Discussion Point ⑤: Defendant's Case**

A. After Andy completes his direct, stop the tape at the ⑤ to discuss the following:

1. Did Andy look nervous? Why would a witness be nervous? Would you be nervous even if you were innocent? Discuss Andy's body language. What clues do you use to decide if someone is telling you the truth?

2. Discuss the types of questions asked by Andy's attorney. Why did the attorney ask Andy about his school activities and grades? What is a leading question?

3. What do you think of the police officer's testimony now that you have heard Andy's version of the events? Can Andy's version be reconciled with what the police officer saw?

4. If you were the prosecutor, what questions would you want to ask Andy? Are there some questions you would not ask for strategic purposes? Conversely, if you were the defense attorney, what would have made Andy's case stronger?

5. Do you sympathize with Andy because he thought Beth was a bully? What would you have done in Andy's situation?

B. Continue the tape through the cross examination of Andy, and the direct and cross examination of co-defendant Beth.

**Summary of this Section of Video:** The prosecutor cross examines Andy. Andy states that the \$200 is his, but he strongly denies that he bragged to Beth about selling drugs. He testifies that he took the money out of his backpack in order to hide it from Beth. He acted interested in Beth only because he did not want her to think he was a nerd. He did not know that the bag contained marijuana, but he admits that he held

the bag at the time he was arrested. He admits that he has missed classes due to his parents' divorce and that he is worried they will not have enough money to send him to music camp. The prosecutor intimates that Andy has found a good way to make money.

Defendant Beth Baker testifies on her own behalf. She states that she is on the swim team, practices a lot, and wants to be on the Olympic team. She denies that she uses drugs. She testifies that Andy called her over to talk to him. Ordinarily, she would not have stopped to talk to him because she wouldn't want to be seen with a nerd, but it was after 4:30 so her friends were gone. She states that Andy waved to her, and moved his backpack over so she could sit down. He said he had some "good weed" and asked her to help him sell it. He bragged that he used the money he made to buy expensive computer equipment. He told her she could buy a lot of cool stuff too, if she helped him. The police officer arrested them before she could say no.

Under cross examination, the prosecutor confronts Beth with a lighter, and Beth admits that she has tried smoking cigarettes once or twice. She insists that she does not use drugs. When the prosecutor asks why Beth was at school so late on the day of her arrest, Beth's attorney objects. The objection is overruled, and Beth explains that she was in detention because a teacher caught her smoking. When the prosecutor asks whether Beth has had detention before, Beth's attorney objects again.

The judge overrules the objection, and Beth states that she had had detention for stealing another student's backpack, but that she did it as a joke.

#### **Discussion Point ⑥: Demeanor, Keeping an Open Mind, and Closing Arguments**

A. After the prosecutor completes the cross examination of Beth, stop the tape to discuss:

1. Credibility. Demeanor. Body language. Compare Beth's attitude towards her own lawyer and the prosecutor.
2. Are Andy and Beth entitled to separate trials? What are the advantages and disadvantages of trying both teens in one trial?
3. Review role of cross examination and importance of keeping an open mind. Do you have a different view of what the police officer saw and heard after the defendants testified? Do you have a different view of Andy after his cross examination? Can Beth and Andy's versions be reconciled?
4. What is your opinion of Beth after her cross examination? Does it matter to you

that she has had detention, stole a backpack as a joke, and tried smoking cigarettes? Do those facts influence you in this case about selling marijuana? Is it fair to judge Beth by her reputation?

5. Prepare the class for closing arguments by discussing role of closing argument.

Compare purpose of closing argument with that of an opening statement.

B. Continue the tape through the completion all closing arguments.

**Content of this Section of Video:** The prosecutor begins her opening argument and states that the police officer told the jury what really happened. Andy is guilty because he was holding the marijuana; and he had a lot of cash though he admitted his family did not. Beth is guilty because she had a cigarette lighter, and that shows she probably smokes marijuana. Beth is the type of kid who would sell drugs. She asks the jury to find both defendants guilty.

Andy's defense attorney begins the closing argument with a recap of Andy's testimony: he gets straight A's, graduated from DARE, and is in the school band. Therefore, he is not a troublemaker. Andy missed some classes because he was upset about his parents' divorce. It is Beth who is making up stories to put the blame on Andy. Andy's attorney points out that the police officer never heard Andy talk about selling drugs, and encourages the jurors to use their common sense and find Andy not guilty.

In Beth's closing argument, Beth's attorney urges the jurors not to judge Beth from rumors that she is a bully and a thief. There is no evidence against Beth: Andy was holding the drugs and cash. Beth should not be found guilty merely because she was talking to Andy. Though she owns a cigarette lighter, she admits that smoking was a mistake and knows she cannot accomplish her Olympic goal if she uses drugs. She asks the jury to find Beth not guilty.

### **Discussion Point ⑦: Jury Instructions**

A. After Beth's attorney finishes her closing, stop the tape at ⑦ for a class discussion.

1. Explain jury instructions. Can the jury get written copies of what the judge said?

Who decides what the instructions will be?

B. Continue the tape through the jury instructions, and Magistrate Judge Papas' final address to the viewers.

**Content of this Section of Video:** The judge gives the jury instructions by explaining they are the rules the jury must follow to decide the case. The defendants are charged with the crime of possessing marijuana with the intent to distribute. The defendants are innocent until proven guilty beyond a reasonable doubt. The jurors may use their common sense, but they cannot guess. The verdict must be unanimous.

The video concludes when Judge Papas tells the class that it is time for them to decide the outcome.

### ⌚ **Conclusion: Conducting Jury Deliberations**

#### **A. Purpose**

The video does not include dialogue of a jury deliberation because the student audience will themselves deliberate to reach a verdict in the case. This is the most interactive aspect of the program. The docent is responsible for guiding the students through the process of making decisions as a jury. This aspect may profoundly impact the students by providing real life lessons. The docent should help the class make a reasoned decision on the guilt or innocence of each defendant. More importantly, the docent can use the exercise to illustrate how to (1) work with others to reach a decision that is acceptable to the entire group; (2) respect the opinions of others while maintaining one's own convictions; (3) listen politely and attentively while others express contrary opinions; (4) defend a minority opinion against the pressures of the majority; (5) use facts, common sense, and logic to persuade another person; and (6) recognize when to modify a strongly-held opinion in light of objective information. Finally, the jury deliberations can show that a group of diverse people may not be able to reach an unanimous decision, even after investing substantial time, but nonetheless behave cordially and respectfully towards those with whom they disagree.

#### **B. Mechanics**

In order for the students to reach a decision, it is important for the class to understand and follow procedures. Each docent, however, needs to use good judgment regarding the extent to which to adhere to the steps suggested. For example, some groups may need the teacher or docent to facilitate the discussion by pointing out weaknesses and strengths in the case, or to ensure that every student is heard. Set a time limit for deliberations. Generally fifteen minutes is sufficient.

If the class is too large to have all students act as one jury, divide the students into smaller groups to give each an opportunity to discuss their views. The separate juries may reach different verdicts or may not be unanimous, but that is a wonderful opportunity to discuss the jury process in our society.

Have each jury select a foreperson. The jury can fill out the ballot slips for a secret vote, and the verdict form (see Appendix). Encourage the students to try to convince each other to change

their minds by giving specific reasons for their decision. At the conclusion of the deliberations, the foreperson can explain the reasons her jury reached the decision it did. This process can generate further class discussion.

### C. Discussion Point

The docent may also use this time to discuss the following topics.

1. Explain how jury deliberations are conducted. Define the terms "retire," "deliberations," and "unanimous."
2. Explain the duties of the foreperson and how the foreperson is selected. Discuss the responsibilities of each individual juror.
3. Explain which items the jury takes into the jury room (e.g., their own notes, the exhibits, the jury instructions); but also which items they do not take (e.g., dictionary, court reporter to record the discussion).
4. Discuss the rules of deliberation. What if the jury has a question for the judge, or for a witness? Can they leave for lunch? Can they go home at night? Can other people visit or attend the deliberations, and reason for secrecy.
5. Emphasize that the jury must reach an independent verdict against each defendant. That is, one *or* both *or* neither could be guilty. Discuss "guilt by association."
6. Discuss possible outcomes (e.g., not guilty verdict, further deliberations, deadlocked, mistrial). What if all 12 cannot agree? What happens if the judge disagrees with jury's decision?
7. Discuss sentencing process. Describe role of probation officer. Discuss the factors that affect a person's sentence (e.g., prior criminal record, employment history, remorse, acceptance of responsibility, seriousness of offense, harm to community) and those factors that should not (e.g., race, wealth, decision to go to trial rather than plead guilty). Ask the students the type and length of sentence that would be appropriate for Andy and Beth if they were convicted (e.g., conditions of probation, length of jail sentence, amount of fine).
8. Consider the consequences of a guilty verdict, or even an acquittal, on the future of the teens (e.g., friends may avoid them, hard to find a job, adults would not trust them).
9. Discuss appellate procedure. E.g., the trial court decides what happened on the

day of the alleged crime, but the appeals court decides if what happened at the trial was fair. If Beth is convicted, can she challenge the judge's decision to let the jury hear that she went to detention and may have stolen a kid's backpack? What if Andy is convicted but he was really innocent?

Thank you for your participation.



## Appendix

### A. Mix and Match Form

1. As Vocabulary
2. As a Quiz

### B. Indictment

### C. Secret Ballot Form

### D. Verdict Forms

1. Plain Language
2. Traditional Language

### E. Magistrate Judge Papas' Judicial Commentary from Complete Version

## Mix and Match Vocabulary

for criminal cases

1. CRIMINAL CASE	_____ Where the trial of a civil or criminal case takes place
2. CIVIL CASE	_____ Group of people selected to hear and decide the result of a civil or criminal case
3. DEFENDANT	_____ Violations of law that are a threat to the safety of the community and people that live there
4. PROSECUTOR	_____ Lawyer that works for the government and represents the people in criminal cases
5. DEFENSE COUNSEL	_____ Person sued for money or accused of a crime
6. JUDGE	_____ A criminal matter where you can be sentenced to no more than one year in jail
7. JURY	_____ In a dispute between people, the person claiming a violation of rights who usually seeks money
8. TRIAL COURT (DISTRICT/SUPERIOR)	_____ A criminal matter where you can be sentenced to more than one year in jail
9. FELONY	_____ A dispute between persons or businesses claiming a violation of rights and where money is usually what one tries to get
10. MISDEMEANOR	_____ The lawyer hired to represent someone accused of a crime

## Words used in Criminal Cases

1. CRIMINAL CASE	Cases involving violations of law that are a threat to the safety of the community and people that live there
2. CIVIL CASE	A dispute between persons or businesses where one side usually tries to get money or an order of the court for the other side to do something.
3. DEFENDANT	Person sued for money or accused of a crime
4. PROSECUTOR	Lawyer that works for the government and represents the people in the community in criminal cases
5. DEFENSE COUNSEL	Lawyer that represents the person accused of a crime or being sued for money
6. JURY	Group of people selected to hear and decide the result of a civil or criminal case
7. TRIAL COURT (DISTRICT/SUPERIOR)	Where the trial of a civil or criminal case takes place
8. FELONY	A criminal matter where the sentence can be <b>MORE</b> than one year in jail
9. MISDEMEANOR	A criminal matter where the sentence can be <b>NO MORE</b> than one year in jail

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO  
Grand Jury Proceedings**

STATE OF CALIFORNIA,

Plaintiff,

vs.

ANDY ADAMS & BETH BAKER,

Defendants.

CRIMINAL CASE NO. 00-427-LSP

**INDICTMENT**

Cal. Health & Safety Code § 11359  
Possession of Marijuana for Sale

The Grand Jury charges:

Count 1

On or before April 27, 2000, within the County of San Diego, defendants ANDY ADAMS and BETH BAKER did knowingly and intentionally possess approximately 1.5 ounces of marijuana, a controlled substance, with the intent to sell it to others in violation of California Health & Safety Code § 11359.

DATED: May 1, 2000.

A TRUE BILL:

\_\_\_\_\_  
Foreperson

\_\_\_\_\_  
District Attorney

Secret Ballot Form

(circle your vote for each defendant)

ANDY ADAMS is:

Guilty Not Guilty Undecided

BETH BAKER is:

Guilty Not Guilty Undecided

(circle your vote for each defendant)

ANDY ADAMS is:

Guilty Not Guilty Undecided

BETH BAKER is:

Guilty Not Guilty Undecided

Secret Ballot Form

(circle your vote for each defendant)

ANDY ADAMS is:

Guilty Not Guilty Undecided

BETH BAKER is:

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Secret Ballot Form

(circle your vote for each defendant)

ANDY ADAMS is:

Guilty Not Guilty Undecided

BETH BAKER is:

Guilty Not Guilty Undecided

Secret Ballot Form

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

V-E-R-D-I-C-T

UNITED STATES OF AMERICA

Plaintiff,

v.

ANDY ADAMS (1); BETH BAKER (2),

Defendants.

Mock Trial Case No. 00-CR-0511-LSP

We the jury in the above entitled cause, find that the defendant:

ANDY ADAMS tried to sell drugs to another student      YES      NO

BETH BAKER tried to sell drugs to another student      YES      NO

Foreperson of the Jury

Dated: \_\_\_\_\_  
San Diego, California



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**V-E-R-D-I-C-T**

UNITED STATES OF AMERICA	)	Mock Trial Case No. 00-CR-0511-LSP
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
ANDY ADAMS (1); BETH BAKER (2),	)	
	)	
Defendants.	)	
	)	

We the jury in the above-entitled case, find the defendants

BETH BAKER, \_\_\_\_\_ of possession of marijuana with intent to distribute as charged in Count 1 of the Indictment.

ANDY ADAMS, \_\_\_\_\_ of possession of marijuana with intent to distribute as charged in Count 1 of the Indictment.

Foreperson of the Jury

Dated: \_\_\_\_\_  
San Diego, California



## Appendix E: Magistrate Judge Papas' Judicial Commentary from Complete Version

### (1) Opening Statement

You probably noticed that only the prosecutor gave an opening statement (often called an “opening” by lawyers). In a civil or criminal case, no one is required to give an opening statement. A party can “waive” or “give up” — decide not to give one *or*, decide to wait to give an opening when it that party’s turn to present their part of the case.

Here, neither of the defendants' attorneys gave an opening and that only means they have decided not to give their opening right now. The decision not to give an opening in a criminal case can be for a lot of reasons.

One of the main reasons in a criminal case why a defense lawyer might not give an opening is because it is the government's responsibility, through the prosecutor, to prove the defendant is guilty — that is sometimes called the government's “burden of proof.” That means that the defendant can force the government to prove the defendant is guilty and to do that with out any help or testimony from the defendant *and*, the prosecutor cannot make any comment to the jury about the defendant's decision to do or say nothing (called the defendant's “right to remain silent”).

### (2) Witness Oath

I'd like to point out something that you are about to see with this and each witness in the trial — something that might not be too obvious. **First**, you will see the witness take an “**oath**” to tell the truth — and if you will notice, the witness will be asked to: “tell the truth — the whole truth — and **nothing** but the truth” — in other words, asked three times!!

You may wonder why they say it three times. Well, think of the law like it was your parents trying to find out what happened from arguing children — the law — here the court and jury — like parents, want to:

- Know “the truth” — that is they don't want any lies;
- Then they want the “whole truth” — in other words, don't hold anything back (don't just tell “part” of the story); and,
- Finally, “**nothing** but the truth” — in other words, “don't and anything “extra” — no additions.

That's why the oath is given the way it is.

### (3) Testimony

There is another important part of being a juror that you need to understand. You will see this witness and others “testify.” Testifying “usually” means for the witness to **describe things with their 5 senses — taste, touch, sight, smell, or hear — in other words, only what the witness actually saw, heard, smelled, etc., not what the witness “thinks” or “believes” happened —** I said “usually” because there are exceptions to the general rule.

You will also see that the witness will answer questions and does not just describe what happened in a story-like way. That is done for a specific reason. The law wants to make sure the witness stays with the topic of the case **and** also so that the jury only hears information that is important to that case and not other things that are not important. For example, if a witness were testifying about what happened in murder case and started adding information about what t.v. shows

were on that day, that last part would not belong.

So, the law requires the witness to testify by answering specific questions. That is very different from your parent asking you “what happened” when they’re trying to figure out what happened in an argument between brothers and sisters.

#### (4) Exhibits

You just saw the prosecutor ask the court to have the witness look at “exhibits” and the judge tell the bailiff to show certain “exhibits” to Officer Crown. “Exhibits” are “things” — something that you can usually see, feel, or touch — they are “things” that are part of the case and which help explain parts of the case or testimony of the witness. For example, the money or marijuana are “things” — exhibits.

Usually, in order to use exhibits, the court requires the parties to let the other side look at the exhibit so they can agree or disagree about whether it can be used and is accurate or is really what it appears to be. The judge decides if the witness and jury can see the exhibit and when — that is why the parties ask the judge for permission to show the witness the exhibit. In this video, all questions about the exhibits were taken care of before the trial started, so the judge can approve the witness being shown the exhibit.

Later, when the jury is deciding the case, they get to take the exhibits with them to look at them up close.

#### (5) Cross Examination

You are about to see “cross examination” of a witness. That word, “cross-examination” means to see and hear a witness testify, and for the side that did not call the witness to ask the witness questions to test the memory of the witness and clear up any mistakes. The lawyer cross examining the memory of the witness will use questions to see how well the witness can remember what was heard, seen, touched, tasted or smelled.

Every witness has an ability to remember. Some remember better than others. You can think of memory like a thermometer: the better the witness remembers, the higher the reading on the thermometer. The worse the witness remembers, the lower the thermometer reading and the less likely you, as a juror, will believe the witness.

#### (6) Objection

What you just heard was an “objection” by an attorney and the “ruling” by the judge. An **objection** is the way a lawyer asks the judge to keep the jury from hearing something that they think is improper or not fair. The judge listens to the objection and makes a decision. If the judge “overrules” the objection, the witness is allowed to answer the question. If the judge “sustains” the objection, the witness is **not** allowed to answer the question.

It is the duty of an attorney to object to improper or unfair questions of the other side, but not to object so much that the jury starts thinking that the objections are being made just to make the other side angry or to try to “hide” something from the jury.

#### (7) Waiver of Opening Statement by Defendants

I hope you remember that earlier I told you that any side can “waive” or “give up” the right to

make an opening statement. Well, by not making one here, the attorney for this defendant decided against making an opening and has now “waived” or “given up” the right to make one.

That doesn’t mean the attorney made a mistake, because there can be many, many reasons why the attorney decided not to give an opening.

#### (8) Objection with Limiting Instruction

You’ve just seen another example of an “objection.” However, this one was a little different because you not only saw the lawyers say the objections, but also saw the attorneys argue the reasons why they think the information from the witness should or should not be heard by the jury.

Then, in addition to making a decision on the objection (remember, the judge “sustains” or “overrules” the objection), here the judge also gave what is called in the law a “limiting instruction.” In other words, the judge told the jury how they can use the information they hear from the witness — the judge “limited,” by the instruction, the way the jury can use the testimony.

#### (9) Demeanor Evidence

This is a good spot to explain a very important responsibility of jurors — that of evaluating the “demeanor” of the witnesses. You may ask, “what is demeanor and why is it important?” Well, demeanor is what is often called “non-verbal” communication, or “body language” — that means the way people talk to each other without using words — such as facial expressions, gestures, movements of the body, and the words used with their body language. All those things are important to be able to evaluate — which means to measure, size-up, or rate — in order to reach a decision — a decision whether to accept or believe what that witness is saying about the events that are part of the case. And, of course, whether or not you believe what someone says is the most important part of listening to a witness testify — because, the whole case can be decided on a person’s believability. We’ll have more time to talk about demeanor later, but pay very close attention to **both** the words used **and** the body language of each witness.

#### (10) Highlight Beth’s Demeanor

Here is another perfect spot for you to consider or rate a person’s “demeanor” or “believability.” Look at how the witness acts and sounds and what the body language of the witness says.

#### (11) Closing Argument

The judge has offered each attorney an opportunity to make a closing “argument.” You will notice that I said closing “argument” — not closing “statement.” That is because a closing argument is not quite the same as the opening statement. You will remember, when we first started watching this trial that the lawyers had the chance to give an opening “statement” — which was to be a description of where the case would go — that means it was to be based on what they expected the witnesses and evidence would actually be, not what they believed it would be.

**Now**, instead of a closing “statement” telling you what the testimony and evidence “was,” each attorney has a chance to take the evidence and testimony and put it together in a way to try to “persuade” or “convince” you, the jury, that what **they** believe happened is how you should decide. — in other words, they want you to believe their version of the events.

In many ways, the closing argument is like putting a jigsaw puzzle together. During the trial, the testimony and evidence is presented like pieces of the puzzle, and then the lawyers take that evidence — those pieces of the puzzle — and put them together in a way so that you, the jury, see the same picture they see.

The jury does not have to agree that the jigsaw puzzle the attorney put together shows a picture they like. Instead, the jury might accept the “argument” of one of the other attorneys — or reach a decision during deliberations that puts together a different version of what happened.

Keep in mind and listen carefully to what you see and hear during the closing arguments to see if the attorneys are accurate and correct about the evidence that was introduced during the trial. Listen to see if the version the attorneys are trying to create — the picture she wants the jury to accept — makes sense and is believable. Why? Because the jury heard the same evidence as the attorney and if the attorney “stretches” the evidence to present a wrong picture or is inaccurate about the evidence, it is okay for the jury to ignore or not accept what the attorney says and blame the lawyer’s client — and that could be very bad for the lawyer’s client.

Let’s listen to the arguments of each attorney.

#### (12) Keep an Open Mind

You have now heard the argument of the prosecution. Is it time to make up your mind about the case?? That’s right — no, it is not time. It is very, very important for a juror to **wait to make up your mind until you hear the whole case — which means every side.**

I’m sure you know you are supposed to wait and keep an open mind until you have heard everything presented, and I’ll give you a good example of why you should wait. What kind of a picture do you get in your mind if I ask you to close your eyes and imagine a person with a mask, and that person with the mask is holding a knife and is standing over a person that is lying down.

I’ll bet you think that the person with the knife may be about to hurt or has already hurt the person laying down.

**But**, what if you then heard the rest of the story — that the person with the knife was a doctor and was about to perform surgery to save the other person’s life. Now, I’m sure you get a very different picture in your mind.

So, what’s important about that? As a juror, you have to make sure you hear all sides of the story before you make up your mind. And as a juror, that’s what the judge tells you to do.

#### (13) Jury Instructions

You have now heard the “arguments” of the attorneys, and it is now the responsibility of the judge to “instruct” the jury. That means the judge is going to “explain” the words and rules the jury must use to make its decision.

Lawyers and judges discuss and debate “rules” and “words” all the time. It’s their job. It’s like trying to set up the rules for a game. If you were trying to make sure everyone playing in a soccer game followed all the rules, you would want to make sure you explained the rules to the players. In a jury trial, the same thing happens. Just before the jury starts its deliberations — the most important part of the case — the court and the attorneys want to make sure ***all*** the members of the jury are following ***all*** the same rules and understand the definitions of all the terms.

Now, if you didn’t know the definition of a word, what would you do? Yes, you’d go to a

dictionary to find the meaning. The only difference in a courtroom is that the judge explains the meaning of the words to the jury so everyone has the same definitions.

So, the judge “instructs” the jury — or, saying it differently, tells them the rules and gives them definitions of the terms.

Let’s see what instructions the judge gives.

#### (14) Jury Deliberations

Okay, it is now the jury’s turn. The case has been presented, the attorneys have tried to persuade you to believe their version of the case, and the judge has given the jury instructions.

The jury is now escorted to the jury room and given all the exhibits and, depending on the judge’s decision, a copy of the instructions. Then the jury begins their deliberations.

If there are any “alternate” jurors — those who have been involved as jurors to that point in case someone gets sick and can’t continue — they are excused (but can be called if someone gets sick during the jury deliberations).

The jury then picks a “presiding juror” (also called foreperson or head juror) whose responsibility it is to make sure everyone has an opportunity to speak about the case and review the exhibits and other evidence.

After everyone feels like they have had enough time, the foreperson holds a vote. What happens after that depends on the vote. There are several possibilities.

1. If it is a unanimous decision, the presiding juror notifies the court and everyone comes into the courtroom to hear the decision (also called a verdict).

2. If the vote is not unanimous, either there is more discussion until a unanimous decision is reached *or* the presiding juror notifies the judge that a decision cannot be reached. The judge can order further discussion, but after that if no unanimous decision can be reached, the judge declares in court that the jury is “deadlocked” — also called a “hung jury” -- and then the judge declares the case to be a “mistrial.” That means the case starts all over at the beginning.

During the deliberations, if the jury has questions, they write it out and notify the judge. The judge then discusses the question with the attorneys and defendants. The judge then gives the jury either a written answer or calls them back to the jury box and tells them the answer in person.

The jury is allowed to go to lunch and home, but have to be warned at both times not to talk about the case until they are all back together again and not to read about the case in the newspaper or listen to reports about the case on the radio or watch t.v. reports about the case. That’s because the court wants to make sure any decision that is made by the jury is made only on the evidence they saw in court and not something that all the parties and jurors didn’t have a chance to see.

If the case results in a unanimous verdict, and after it is announced, the jury is “excused” — just like being let out of school for the summer! The members of the jury can talk about the case with anyone at any time — but, is not required to — so the jury can decline to talk or talk as each juror sees fit.

With the exception of the verdict, you have seen everything that normally happens in a criminal trial — and I want to thank you for allowing me to be your guide through this process.

Having seen what is involved and how important a role it is to be a juror, it is now time for you to make your own decision.